

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

**ALVIN ROACH and KARRIE SMITH,
individually and as guardian and
next of kin of ETHAN ROACH**

Plaintiffs,

vs.

Civil No. 1:09-CV-80

**GRACO CHILDREN'S PRODUCTS INC.
d/b/a GRACO and/or GRACO BETA**

and

NEWELL RUBBERMAID INC.

And

RUBBERMAID INC.

Defendants.

AGREED ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636(c), Rule 73(b) of the Federal Rules of Civil Procedure, and the consent of the parties, for all further proceedings, including entry of judgment. The parties filed a Joint Motion for Order Approving Minor's Settlement, on September 7, 2010. The Affidavits of Alvin Roach and Karrie Smith, Jaclyn Berry, Larry R. Bray, and Russell J. Wilson were filed with the Motion. The parties consented to the jurisdiction of the undersigned on August 9, 2010, and appeared before the Court for a hearing on the instant matter on September 8, 2010. Attorneys Robert Kurtz and Travis Venable were present representing the Plaintiffs, and Attorneys for the Defendant were present as well.

I. EVIDENCE

The Affidavit of Alvin Roach and Karrie Smith has been filed with the Court and attests to the parents' belief that this settlement is in the best interest of Ethan Roach. In addition, the Court heard testimony from Alvin Roach, Karrie Smith, Jaclyn Berry, and Russell Wilson at the hearing held on September 8, 2010. The Court has reviewed the Affidavits submitted by Larry R. Bray, Jaclyn Berry, and Russell J. Wilson. The Court has also reviewed the Mediation Settlement Memorandum, the Ethan Burnett Roach Irrevocable Trust, the Structured Settlement Documents and a summary of the case expenses accrued in prosecuting this case.

II. FINDINGS

Based upon the parties representations to the Court, both in their filings and statements at the hearing, the Court finds as follows:

Pursuant to Fed. R. Civ. P. 5.2(a)(3), the minor child is afforded privacy protection and could be referenced by the child's initials. This is an exception offered to minor children from Fed. R. Civ. P. 10(a) requiring the full name of all parties. However, as all pleadings in this case have included a reference to the full name of the minor child, the Court concludes the privacy protection afforded has been waived. Fed. R. Civ. P. 5.2(h).

The Plaintiffs Alvin Roach and Karrie Smith and their minor son, Ethan Roach, reside in Knoxville, Tennessee and receive mail at 700 Jonathan Avenue Knoxville, TN 37920. Ethan Roach was born on February 21, 2006. Mr. Roach and Ms. Smith are the natural parents of Ethan Roach, and they have sole and primary custody of their son. Mr. Roach and Ms. Smith are the natural guardians of their son.

On March 27, 2009, Plaintiffs filed a Complaint individually and on behalf of their son, Ethan Roach, against the Defendants, alleging various claims under federal and state law. The Defendants deny any and all liability. Notwithstanding the dispute between the parties, in order to avoid further litigation and the corresponding expenses thereof, the Defendants, without admitting any liability whatsoever, have agreed to a compromise settlement in this matter.

The Court has reviewed the Joint Motion for Order Approving Minor's Settlement filed in this case. The Joint Motion identifies how the settlement proceeds in this matter will paid. The Court specifically approves the plan submitted in the Joint Motion and finds that the settlement, and the financial plan for the settlement proceeds submitted by the parties is in the best interest of the minor child. The Court would additionally find that the payment of the subrogation interest by the Ethan Burnett Roach Irrevocable Trust to Blue Cross Blue Shield of Minnesota is appropriate.

The Court finds that it is appropriate to waive the appointment of a guardian *ad litem* for Ethan Roach, as the petitioners are the minor's parents and this waiver is in the minor petitioner's best interests. The parties have represented to this Court that the proposed settlement is reasonable and in the best interest of Ethan Roach, and the parties request that the settlement be approved and made the judgment of the Court in full release and satisfaction of all claims which the Plaintiffs may have or hereinafter could claim against the Defendants, Graco Children's Products, Inc., Newell Rubbermaid, Inc., and Rubbermaid, Inc., current or past, arising out of the incidents described in the Complaint.

III. CONCLUSION

Based on the foregoing the Court finds, that the settlement is in the best interests of the minor. The expenses and attorneys fees contained in the settlement are reasonable. The Court finds that the Joint Motion for Settlement of Minor's Claims is well-taken, and it is **GRANTED**. The Settlement is **APPROVED** and shall be memorialized in a Judgment to follow this Memorandum. This case is hereby, **DISMISSED** with prejudice with each party to bear their own costs and attorney fees. **IT IS SO ORDERED.**

ENTER:

s/ Susan K. Lee

United States Magistrate Judge
UNITED STATES MAGISTRATE JUDGE

s/Robert R. Kurtz

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